

ADVISORY OPINION NO. 92-41

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON OCTOBER 1, 1992

GOVERNMENTAL BODY SEEKING OPINION

A Superintendent of a County School System

OPINION SOUGHT

Is it a violation of the Ethics Act for Board of Education members to provide themselves with complimentary admission passes to sporting events held at a local stadium?

FACTS RELIED UPON BY THE COMMISSION

Each year County Board of Education members are issued sixteen (16) free admission passes to sporting events which are held at that County's stadium. These admission passes may then be distributed by the Board members to individuals of their choice.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(b)(1) states in pertinent part that...a public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

ADVISORY OPINION

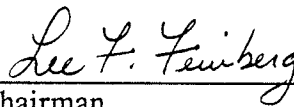
Pursuant to WV Code §6B-2-5(b)(1) public officials may not use their office or the resulting prestige of their office for their own private gain or the private gain of another. The Commission determined in Advisory Opinion #90-160 that Board members of a County Building Commission who provide themselves with a cash gift of \$100 would violate this subsection. Also, Advisory Opinion #90-151 ruled that it would be inappropriate for members of a County Board of Education to accept complimentary tickets to sporting events.

In Advisory Opinion #90-187 the Commission held that members of a Board of Education may accept from the SSAC complimentary passes to athletic events which they supervise and oversee as part of their official job responsibilities. This decision was based in part on the understanding that on-site supervision and monitoring of school events is part of the Board members' job responsibilities which made free admission to such events permissible under the Ethics Act.

Subsequent to these opinions, legislative rules were promulgated which provide that public officials and public employees may accept complimentary tickets to sporting events if the tickets are incidental to the conduct of their official or ceremonial duties.

Therefore, it would not be a violation of WV Code 6B-2-5(b)(1) for Board of Education members to each take one complimentary pass to sporting events if attendance at such an event is considered part of their job responsibilities.

This approval, however, is limited to **one** complimentary pass per Board member for any athletic event in which the public official has an official or ceremonial role. Taking additional complimentary passes, which could be distributed to others at the Board members' discretion, would be improper and would constitute an intentional and knowing use of the Board members' public office for their own private gain or for the private gain of another.


Chairman